

S E C R E T SECTION 01 OF 03 TEL AVIV 001220

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SUBJECT: EXPORT CONTROLS: COMMERCE U/S MCCORMICK'S MARCH 9
MEETING AT THE MFA

Classified By: Political Counselor Norm Olsen. Reasons: 1.4 (b, d).

SUMMARY

11. (C) At his March 9 meeting at the Israeli Ministry of Foreign Affairs (MFA), Commerce Under Secretary for Industry and Security David McCormick was told by MFA Deputy Director General Miriam Ziv and her team that the MFA is committed to seeing Israel's export control system improved through new export control legislation, legislation or regulations on dual-use items, and an enhanced role for the MFA in Israel's export control system. The Israeli side stressed that Foreign Minister Livni takes a personal interest in the export control issue and the MFA's role in it, and pointed to the creation, last fall, of an export control department within the MFA as evidence of this. Ziv offered her own assurances that the MFA will make every effort to ensure that Israelis exporting to China adhere to Israel's commitments to the USG. She confirmed that debate continues between the MOD and MFA about the MFA's ultimate role in the export control system, and admitted that the MFA is dependent upon the MOD for status updates on the proposals to change Israel's export control system. Ziv said the MFA will continue negotiations with the MOD on the principles that (a) every opportunity for the MFA to review an export control case is viewed as an opportunity to shape policy; and (b) the MFA will never be the ministry responsible for holding up processing of an export control case. Ziv stressed that the MFA brings unique value-added to the inter-ministerial review process due to its strategic view of foreign relations.

12. (C) Under Secretary McCormick reinforced the importance that the USG places on this issue. He also reviewed the USG's process of interagency consultation on export control cases and dispute resolution, and encouraged the MFA to push for a formal, transparent dispute resolution process that is clearly described in new legislation. He noted the USG's strong interest in seeing Israel adopt the remaining Wassenaar Arrangement categories as soon as possible, and reiterated that this is the beginning of a long process. END SUMMARY.

MFA UNDERSCORES ITS COMMITMENT TO EXPORT CONTROLS

13. (U) Commerce Under Secretary McCormick's final meeting on March 9 (see septels reporting on his meetings at the MOD and MOITAL) was at the MFA. MFA Deputy Director General and Strategic Affairs Division Director Miriam Ziv led the Israeli side. Her team included Dan Arbell, director, First North American Department; Hillel Newman, policy adviser to the Minister of Foreign Affairs; Haim Waxman, director, Export Control Department; Keren Shahar-Ben Ami, counsel, Office of the Legal Adviser; and Alon Bar, director, Arms Control Division.

14. (C) Ambassador Ziv noted her pleasure at having the Under Secretary visit, and underscored the MFA's commitment to

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seeing export control legislation passed and implemented. The MFA wants Israel's export control system to be transparent, and is working hard with the MOD and MOITAL both on the export control legislation and on legislation concerning dual-use items. Newman added that Israeli FM Livni attributes great importance to the export control issue and the MFA's role in Israel export control system. FM Livni has discussed the issue on one occasion with DefMin Mofaz, and is ready to raise it with him again, if necessary. It was also one of the first issues she discussed with the Ambassador Jones. Under Secretary McCormick stated his understanding that it is on the U.S. Ambassador's list of top three issues in the U.S.-Israel bilateral relationship.

DISCUSSION OF THE MOD VS. THE MFA ON EXPORT CONTROLS

15. (C) Responding to Ambassador Ziv's question about how Under Secretary McCormick viewed the MOD's presentation earlier in the day, the Under Secretary said that the details were encouraging. The main question, he said, is whether Israel can see the process through to conclusion. The Under Secretary noted his interest in three particular issues:

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(a) Dispute Resolution -- Under Secretary McCormick advised that the process be formally laid out so that disputes can be raised to higher levels for resolution, as necessary. He noted that in the U.S., disputes can be raised to the President. The Under Secretary noted that he raised this at the MOD.

(b) China -- The Under Secretary noted that his understanding of the emerging plan is that all products destined for the PRC will be considered as heading to military end-users, and thus processed by the MOD.

(c) Timetable for Implementation -- The Under Secretary asked when all nine remaining categories of the Wassenaar Arrangement would be adopted.

16. (C) Under Secretary McCormick noted that the MOD had acknowledged that there was some debate on the role of the MFA within the export control system. He recounted the MOD's current thinking that the MFA would have "some role to play" in specific categories of controlled items, on an ad hoc basis.

17. (C) Ambassador Ziv said Israel is very aware of the U.S. position on China. She said that Israel wants its businessmen to do business in China, but only in accordance with commitments Israel made to the U.S.

18. (C) MFA Export Control Department Director Haim Waxman said that the MFA places great importance on export controls and created a new department in the MFA the previous summer because of this. He stressed that the current situation was a "once in a lifetime moment" for the MFA on the export control issue, and that the MFA views its ultimate role in the export control system as an issue of vital importance. Waxman confirmed that the MFA currently sees license applications and agrees that an interagency process yields better results. The MFA ultimately views each case as a piece of policy -- as a case is decided upon, it sets precedent. If the MFA does not deal with an actual, specific case, then it is out of the policy. Waxman suggested that this principle will guide the MFA in its negotiations with the MOD and MOITAL on proposed export control legislation and regulations.

19. (C) On adopting the nine remaining Wassenaar Arrangement categories, Waxman said that the dual-use aspect of Wassenaar is new to the MFA, and that the MFA's Legal Department is working hard on the issue, soliciting input from Israeli Customs when appropriate.

110. (C) On the dispute resolution mechanism, Waxman said that the MFA is trying to have it inserted into the new legislation. On dual-use issues, the MFA is willing to accept what MOITAL proposes (e.g., resolving disputes, if possible, at a panel comprised of the directors general of the MFA, MOD and MOITAL, before referring them to the Prime Minister as a last resort).

111. (C) Ambassador Ziv said that the MFA raised these issues at the January meeting of the U.S.-Israel Joint Political-Military Group (JPMG). She stressed that the MFA brings certain strengths to the table that no other GOI ministry can bring: it manages foreign relations, and it has a strategic viewpoint. Ambassador Ziv confirmed that the MFA's legal advisers are working together with the MOD and MOITAL's legal advisers, and that their respective directors general are consulting each other.

DISCUSSION ON CONSULTATION AND DISPUTE RESOLUTION

112. (C) Under Secretary McCormick reviewed the process of consultation and dispute resolution in the U.S.: For every 100 dual-use licenses the USG issues, some small percentage involve differing views. Sometimes compromise can be reached through stipulations that are attached to the license. Those cases that are not resolved go to an Operating Committee chaired by a career civil servant from the Commerce Department. A decision is then rendered. It can be appealed and sent to a political appointee at the assistant secretary level for review. The Advisory Committee on Export Policy (ACEP) usually resolves the issue. If it is not resolved there, the case can be sent to the Export Administration Review Board (EARB) for a cabinet-level decision. If

necessary, disputes can be elevated to the President, but this is very rare. Under Secretary McCormick said that this dispute resolution process works fairly well. Two to three weeks can be added to the application process if a dispute is elevated to the ACEP.

¶13. (C) Waxman said that the MFA is still discussing how much time to stipulate for each stage in the application review process. The MFA wants to give itself ample time to review both dual-use and arms exports cases. Ambassador Ziv stressed, however, that the MFA will never be the ministry responsible for holding up a transaction.

ZIV ON ESTABLISHING A NEW DIRECTORATE AT THE MOD

¶14. (C) Ambassador Ziv stressed that the MFA knows only what the MOD tells it, and admitted that the MFA is not intimately involved in the MOD's work on Israel's new export control system. She suggested that the MOD might be facing some difficulty in the project, but acknowledged that the MOD understands that there must be real change, and that the MOD will have to adopt a "regulator mindset."

¶15. (S) On implementing Israel's commitments under the August 2005 Statement of Understanding (SOU), Ambassador Ziv avoided nailing down a timetable, but stressed instead that Israel is "high in understanding" but requires time for legislation to be passed. (NOTE: This comment echoed those made earlier at the Under Secretary's meetings at the MOD and MOITAL. END NOTE.) She said that consultations between the MFA and MOD are "far from where they should be," and stressed that the MFA wants to work more closely with the MOD. She made it clear that it is not a prestige issue for the MFA. Under Secretary McCormick responded by noting that he reinforced in

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his earlier meetings at the MOD and MOITAL the importance of having the MFA involved (a) due to its strategic perspective, and (b) because a genuine interagency process yields better results. McCormick added that both the State and Commerce Departments conduct pre-license and post-shipment verifications, and that some U.S. embassies have full-time export control attaches assigned to them. (NOTE: The March 29 edition of the major daily, Ha'aretz, features an article on page 15 citing the MFA's displeasure with the MOD regarding the role envisioned for the MFA in the draft Defense Export Control Act. The authors notes that the draft DECA is to be submitted to the inter-ministerial legislative committee on March 29. END NOTE.)

UNDER SECRETARY MCCORMICK'S CONCLUDING POINTS

¶16. (S) At the end of the meeting, Under Secretary McCormick made the following points:

(a) The USG is placing growing importance on export controls as part of its overall nonproliferation agenda.

(b) A better export control system increases the likelihood of increased trade in sensitive technologies between the U.S. and Israel.

(c) It is clear that Israel has taken initial steps in implementing an export control system that serves Israel's and America's interests.

(d) Implementing an effective plan consistent with the SOU is important.

(e) The USG is ready to assist. The Commerce Department can help.

(f) The USG believes that the MFA can play a very important role in export controls. In the U.S., the State Department takes the lead on export license applications involving munitions. The Commerce Department takes the lead on export license applications on dual-use items.

(g) A genuine interagency process yields better results.

¶17. (U) Under Secretary McCormick has cleared this cable.

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JONES